
CHAPTER 3. ACQUISITION

SECTION I - POLICY

3-1 Acquisition. HUD will acquire and take possession of properties foreclosed or taken by deed-in-lieu of foreclosure of FHA-insured mortgages and certain special acquisitions. Special acquisitions arise as a result of foreclosure or deed-in-lieu of Secretary-held mortgages, Section 312 rehabilitation loans and Title I Home Improvement Loans. HUD may also take limited possession (custody) of abandoned properties securing Secretary-held mortgages solely for the purpose of preserving and maintaining the property pending acquisition of title.

In some jurisdictions it may be necessary to seek court permission to exert custodial authority over property to which title has not been acquired. In these cases, advice of the HUD local counsel will be sought.

3-2 REAM. Day-to-day property management will be provided by a Real Estate Asset Manager (REAM). The REAM performs physical inspections of properties, eliminates imminent hazards to the public and takes action as necessary to preserve and protect the property.

3-3 Monitoring Claims. Mortgagee claims are reviewed for damage, occupancy, and taxes and are compared to property inspection reports to confirm that work claimed was actually and properly performed. Properties are inspected to ascertain that reasonable measures were taken by the mortgagee to inspect, protect, and preserve the property.

3-4 Disposition. Properties are listed for sale as soon as possible after the Department has taken possession.

SECTION II - INTERNAL CONTROL OBJECTIVES

3-5 Upon Conveyance. All properties are assigned to a Real Estate Asset Manager (REAM) and an independent appraiser.

3-6 Safeguarding Properties. The REAM safeguards properties by providing day-to-day property management and preservation and protection (P&P) services.

3-7 Disbursements. All disbursements must be valid, reasonable, appropriately documented and authorized, and comply with procurement and program guidelines. Only authorized vendors are used. Disbursements are processed promptly upon authorization. An appropriate separation of duties is maintained between authorizing and processing of disbursements.

3-8 Claims for P&P. Work which was not performed or not properly performed is promptly identified by the Field Office. Costs claimed are reviewed with the mortgagee, and disallowed. Excessive costs

(overcharges) are identified on a post-review by a HUD contractor and collection, if appropriate, is pursued by MIAS, Single Family Insurance Claims Division.

4310.5 REV-2

SECTION III - TYPES OF ACQUISITIONS

- 3-9 Notification. The Department receives a variety of documentation which serves as notice that a property has been acquired or abandoned and requires preservation and protection. The type of notification depends upon the type of program, mortgage or loan being foreclosed. In all cases, notification must be date stamped upon receipt by the Field Office. Following is a description of programs, and acceptable types of notification. Except as shown below, all properties are managed and sold the same as a standard acquisition which is the result of the foreclosure of an FHA-insured mortgage.
- 3-10 FHA-Insured Mortgage. This is the most common type of acquisition. After acquiring good and marketable title to and possession of the property the mortgagee must transfer the property to HUD within 30 days after acquiring possession by foreclosure or other means; or within such further time as may be necessary to complete the title examination and perfect the title. Title must be in the Secretary's name. (24 CFR 203.359.)
- A. Initial Documentation. A copy of Part A of the Single Family Application for Insurance Benefits, Form HUD-27011 (Appendix 11), is to be sent to the Field Office on the date the deed to the Secretary is filed for record. The copy must be accompanied by a copy of the deed to HUD filed for record; a copy of the Mortgage Insurance Certificate; copies of the last tax bills paid to each taxing authority; a copy of HUD's letter approving damaged or occupied conveyance, if applicable; a copy of the mortgagee's certification that the conditions of 24 CFR 203.379(b), relating to fire damage, have been met, if applicable; a copy of documentation that will verify that appropriate action was taken to protect and preserve the property, if applicable; and keys to the property, if available.
- B. Deed. Deeds are to be recorded in the name of the "Secretary of Housing and Urban Development, his successors and assigns," with the address of the Field Office and "Attention: Single Family Property Disposition Branch." (The purpose of this requirement is to assure that taxing authorities send tax bills to the Field Office for payment, rather than to Headquarters.)
- C. Cases Generated from Claims. The Field Office usually establishes a case in SAMS by entering information provided on

the copy of the Part A, Form HUD-27011, Single Family Application for Insurance Benefits, (claim form) submitted by the mortgagee. If however, the case is established in SAMS as a result of a full or partial claim payment by MIAS, and the Field Office has not received the claim form, the Field Office must contact the mortgagee to obtain a copy of the claim form and required attachments (paragraph 3-10 A). The case must be assigned to the REAM and an appraiser and assignment should not be delayed pending receipt of the claim form and attachments from the mortgagee. To complete the establishment of the case in SAMS, obtain the necessary information from the K03 screen in the A43C System.

3-11 Special Acquisitions.

- A. Department of Defense (DOD), Section 1013 Properties. Until December 31, 1992, HUD accepted assignment, on a reimbursable basis, of properties acquired by the Department of Defense (DOD) pursuant to Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966. These cases have the suffix "987". These properties are marketed and sold the same as properties in the regular program.
- B. Abandoned/Custodial Property. These are properties secured by a Secretary-held mortgage which, upon inspection, were found to be vacant or abandoned. Loan Management will not provide inspection reports to PD for Secretary-held properties unless a property is found vacant or abandoned.

Loan Management will notify PD that a property with a Secretary-held mortgage has been abandoned and assigned to PD. Title is not in HUD's name. Upon receipt, PD will take possession to protect and preserve the property, only, until title is acquired. In some jurisdictions it may be necessary to seek court permission to exert custodial authority over property to which title has not been acquired. In these cases, the advice of the HUD local counsel should be sought.

Prior to assignment to PD, Loan Management may request that the Regional Contracting Division contract for inspection of custodial properties to determine whether they are vacant or abandoned. Requests for inspections of custodial properties must be referred to the Regional Contracting Division. The REAM or REAM monitor may not be assigned these inspections unless authorized under procurement procedures.

Loan Management inspection costs for custodial properties must not be paid through SAMS. Only expenses incurred by PD after assignment for custodial duties may be paid through SAMS. (See

Action and Expenditures Prior to Acquisition, paragraph 3-12.)

To terminate a custodial case in SAMS, make a written request for termination to the MIAS, Real Property Branch. The request may be made via SAMS E Mail or LAN cc:Mail message.

- C. Foreclosed Secretary-Held Mortgage (SHM). These are properties secured by a Secretary-held mortgage which have been foreclosed. Judicial foreclosures are completed either by the U. S. Attorney, a HUD attorney designated as a Special Assistant U. S. Attorney, or a private attorney under contract to the Justice Department. Non-judicial foreclosures are performed by a HUD contractor or staff of Single Family Loan Management. The Government Technical Representative (GTR) will be the Director of Housing Management in each category "A" or "B" Field Office, the Chief of Housing Management or the Loan Management Branch in category "C" Field Offices, or the Regional Director of Housing.
1. Referral to PD. The GTR, usually in Loan Management, will inform PD of the acquisition of a foreclosed Secretary-held mortgage. The GTR will also inform PD if the property is sold during the foreclosure process. HUD's foreclosure contractor will subsequently send a transmittal letter, which may be accompanied by the deed and title evidence for title approval. Title is vested in the Secretary's name. No other notice of property acquisition will be provided.
 2. Listing and Sale. Properties should be listed for sale as soon as possible after receipt of Loan Management's notice. Do not wait for receipt of the deed.
 3. Title Evidence. Title evidence must be reviewed by the Field Office on an expedited basis while the property is marketed.
 4. Notification to Mortgage Insurance Accounting and Servicing (MIAS). Loan Management will notify the Single Family Notes Branch, MIAS, by memorandum, of a Secretary-held acquisition. MIAS does a conversion from a note to a HUD-owned property in SAMS.
 5. Occupants. If the property is occupied after conveyance to HUD, PD must initiate and follow occupied conveyance procedures as shown in Chapter 2. Any subsequent eviction proceeding is the responsibility of PD in the Field Office.
 6. SAMS Processing/Case Termination. Only MIAS, Real Property Branch, can terminate a secretary-held mortgage case in SAMS. The Field Office must make a written request for termination. Use SAMS E Mail or LAN cc:mail to make such a request to the MIAS, Real Property Branch.
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4310.5 REV-2

- D. Title I Loans. These properties were acquired as the result of a foreclosure by the Department of a Title I Home Improvement Loan. Responsibility for foreclosure is as described for foreclosed Secretary-Held Mortgages in paragraph 3-11 C. Title is vested in the Secretary's name and may be subject to a lien.
1. Referral to PD. The foreclosure contractor will send a copy of its inspection report indicating the occupancy status of the property, as well as notification of the outcome of any foreclosure sale, to the Government Technical Representative (GTR) or the counsel Government Technical Monitor (GTM) in judicial foreclosure states, in the Field Office. The deed and title evidence will also be sent directly to the GTR or GTM, as appropriate, by the foreclosure agent for title approval. No other notice of property acquisition will be provided. The GTR or GTM will refer foreclosed Title I properties to PD.
 2. Establish a Case Number. Title I acquisitions do not have 12-digit FHA case numbers. The Field Office must establish the case number, as follows: A three digit office code, a six-digit middle number from assigned numbers 970001 through 979999, and the three-digit suffix 985.
 3. Notify Mortgage Insurance Accounting and Servicing (MIAS). The Field Office must notify MIAS, Title I Notes Branch, by memorandum, of the Title I acquisition. Include the old Title I number and the newly-assigned case number.
 4. Review Documentation. Determine whether property taxes, homeowners and condominium fees or assessments are paid currently. Take action necessary to protect HUD's interest in the property.
 5. Occupants. In the event the property is occupied after conveyance to HUD, the Field Office must initiated occupied conveyance procedures as shown in Chapter 2. Any subsequent eviction proceeding is the responsibility of the Field Office, not the foreclosure agent.
- E. Section 312 Properties. These are properties acquired as a result of foreclosure by the Department of a Section 312 rehabilitation mortgage. CPD's Master Servicer will provide a Memorandum of Property Acquisition (Appendix 14). For an abandoned Section 312 property, the Field Office may receive a notification from the Master Servicer authorizing PD to preserve and protect. This latter notification is not a notice of acquisition but PD must protect and preserve on a limited basis just as for abandoned Secretary-held mortgage properties. Sales activity may not begin until the official Memorandum of

Property Acquisition has been received. Title is vested in the U.S.A, acting by and through the Secretary of HUD.

All communication regarding the conveyance of a Section 312 property should be with CPD's Master Servicer. Procedures unique to acquisition of Section 312 properties are discussed below.

1. Referral to PD. CPD's Master Servicer will send a memorandum to PD in the Field Office to give notice of a Section 312 acquisition (Appendix 14). Title evidence and the original deed to the property will usually accompany the memorandum. However, to expedite the process, the Master Servicer may send the notification without waiting for the title policy so that the Field Office can begin to market the property. In such instances, the notification memorandum will indicate that the title policy will follow.

5/94

3-4

4310.5 REV-2

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2. Responsibility. The Field Office PD staff is responsible for security, protection, management, maintenance and repair, rental and sale of 312 properties acquired following default of Section 312 Rehabilitation loans.
 3. Establish a Case Number. Section 312 acquisitions do not have 12-digit FHA case numbers. The Field Office must establish the case number, as follows: A three-digit office code, six-digit middle number from 980001 through 989999, and the three-digit suffix 986.
 4. Acknowledgement of Conveyance. Upon receipt of the Master Servicer's notification of conveyance of a Section 312 property (Appendix 14), the Field Office must acknowledge receipt and provide the Master Servicer with the newly-assigned case number. The Field Office must also be sure to include the Section 312 and Loan Servicing numbers so that the Master Servicer can match them to the newly assigned case number.
 5. Occupants. The Master Servicer will send the occupied conveyance notification to the occupants prior to conveying title to HUD. However, in the event the property is occupied at conveyance, the Field Office must initiate and follow occupied conveyance procedures as shown in Chapter 2. Notify the foreclosure agent of the outcome.
 6. Title Evidence must be obtained from CPD's Master Servicer prior to listing a property for sale. The Field Office

cannot close a sale until complete, acceptable title evidence is received from the Master Servicer.

7. Superior Liens. Title may be subject to other liens. Thus, Field Offices must review the title evidence as they normally do after foreclosure of FHA-insured mortgages and conveyance of the properties to HUD. If there is a superior lien, the Field Office must notify the Master Servicer in writing and provide the information needed to resolve the matter. If the lien is an FHA-insured mortgage, the Master Servicer should be given the case number and approximate balance in default. The Field Office may instruct the Master Servicer to satisfy any superior mortgage and provide satisfactory evidence of this satisfaction or other disposition of the lien.
8. Taxes/Assessments. Liens such as taxes or homeowners association assessments are to be paid by the Field Office.
9. Programming, Listing, and Sale are generally governed by the same considerations as regularly-acquired properties, with greatest net return the overall aim. Special instructions for disposition may be provided by CPD. The Field Office cannot close the sale until complete, acceptable title evidence is received from the Master Servicer.

F. Legal Settlement. These are properties which were not FHA insured. They are acquired as the result of a law suit or for other reasons, such as to accommodate another federal agency. The Field Office must order the title policy. In all other respects, these cases are treated the same as a regularly-acquired property. The Field Office must establish a case number in SAMS, as shown below, although these cases do not interface with the A43 Claims System.

1. In the Initial Case Definition (C1) screen, use the Field Office three-digit case number prefix. The MSA classification for these cases is "L".

2. The six-digit number begins with 96, followed by a four-digit sequential number. The sequential number should start with 0001, followed by 0002, etc.
3. The three-digit number for the Section of the Act is L00.

G. Repurchased Properties. These properties once had an FHA case number. They are acquired as a result of a repurchase. Prior

to approval of repurchase, a title review should have been conducted as shown at paragraph 11-28. If the title policy is not available, however, the Field Office must order a new title policy to ensure there are no liens. In all other respects, these cases are treated as a new acquisition. Contact the Single Family Property Disposition Division, Systems Management Branch, in Headquarters, to establish or re-establish these cases in SAMS.

- H. Foreclosed Purchase Money Mortgage (PMM) Cases. These properties may or may not have had an FHA Case Number. The Field Office must order a title policy. In all other respects, these cases are treated the same as a new acquisition. Contact the Single Family Property Disposition Division, Systems Management Branch, in Headquarters, to establish or re-establish these cases in SAMS.

5/94

3-6

4310.5 REV-2

SECTION IV - ACTIONS AND EXPENDITURES PRIOR TO ACQUISITION

- 3-12 Allowable Expenses. Under ordinary circumstances, expenditures are not authorized prior to acquisition. Following are exceptional circumstances under which expenditures are authorized prior to acquiring or taking possession of a property.
- A. Occupied Conveyance. Inspection by the REAM is necessary in support of the Field Office's consideration of an occupant's request to remain in the residence after conveyance to HUD.
- B. Damaged Property. Inspection by the REAM is necessary to inspect a damaged property which the mortgagee wishes to convey in an unrepaired condition. The purpose of the inspection is to determine the dollar amount of damage so that an adjustment can be made on the mortgagee's insurance claim. See 24 CFR 203.379 for further details regarding this procedure.
- C. Abandoned (custodial) Property. HUD will take possession of a property secured by a Secretary-held mortgage which is found to be vacant or abandoned upon inspection. Possession will be taken for the sole purpose of preserving and protecting the property until HUD acquires title. No personal property in or upon the premises is to be removed because the ownership of both personal and real property remains with the mortgagor until after the foreclosure is completed.
1. Action to Remove Imminent Hazards must be initiated as soon as possible but no later than 24 hours after discovery. (Imminent hazards are discussed at paragraph 3-14 E.) The Field Office must ensure that removal does not constitute illegal trespass under local laws.

2. Boarding. Boarding an abandoned property with a Secretary-held mortgage may be justified in areas where there is severe vandalism. The Field Office must make a determination on a case-by-case basis whether to board the property unless the Office has predetermined areas designated for boarding. Generally, marketability is enhanced when the property is not boarded and in some areas hoarding will attract rather than deter vandals.

SECTION V - FIELD OFFICE RESPONSIBILITIES

3-13 Procedures and Processing. Several steps must be taken immediately upon notification that a property has entered HUD's inventory.

- A. Notify REAM. Immediately upon acquisition or taking possession of a property, assign new properties by telephone to the REAM contractor. The phone notice must be confirmed in writing to the REAM within two work days of the phoned assignment. The confirmation must provide the date the property was assigned by phone.

The REAM must make the initial inspection, provide access to the appraiser, and take any action necessary to preserve and protect the property within 48 hours. The REAM must also initiate action to remove or correct imminent public health or safety hazards within 24 hours of discovery. See paragraph 3-14 E. for examples of imminent hazards. In the absence of a REAM, the Field Office must initiate action to remove imminent hazards within 24 hours of discovery. In all cases, the Field Offices must follow requirements of state or local code for removal of imminent hazards.

- B. Assign to Appraiser. Assign new acquisitions to an appraiser daily upon acquisition for preparation of a Uniform Residential Appraisal Report (URAR). Do not hold appraisal orders. See Appraisal Reports, paragraph G-12, for specifications required when placing appraisal orders. See Access, paragraph 3-14 B., for responsibilities of the REAM to provide immediate access to the appraiser.

Field Offices may use appraisers under the national contract or may procure the services of local appraisers. All local appraisers must be state licensed or state certified, if applicable, in the state where the property to be appraised is located.

- C. Case File. Establish a case file for each property, following procedures for establishing a file as shown in paragraph 14-10.

The Field Office must assign a case number for Title I and Section 312 cases. See paragraph 3-11 D. for Title I and paragraph 3-11 E. for Section 312 case numbers.

- D. Review the Mortgagee's Claim (Single Family Application for Insurance Benefits, HUD Form HUD-27011, Part A, Initial Application) for damage, occupancy and payment of taxes. Upon receipt, review Parts B and C to evaluate the physical condition of the property by comparison to the REAM or other inspector's Initial Inspection Report, HUD-9516A, to assess the mortgagee's compliance with preservation and protection (P&P) requirements. The Field Office must request reimbursement by the mortgagee where it is clear from a property inspection that the mortgagee did not perform, or properly perform, work claimed on the HUD-27011.

If there is evidence of vandalism or theft resulting in damage or missing built in appliances, air conditioning units, furnaces, water heaters, plumbing fixtures, etc., request that the mortgagee file a claim with their insurance carriers and obtain all available insurance proceeds for damages to the property. Mortgagees that do not have such insurance coverage should not be held accountable for vandalism or theft unless it is due to the mortgagee's failure to properly inspect, protect and preserve the property. However, mortgagees that refuse to take all appropriate action to recoup all available hazard insurance proceeds should be referred to the Loan Management Branch for inclusion in their next mortgagee monitoring review.

- E. Monitor the REAM's Compliance with HUD's procedures for taking possession of an acquired property, pursuant to terms of the REAM contract. See Chapter 12 for REAM monitoring and review requirements.

5/94

3-8

4310.5 REV-2

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- F. Survey. If there are serious questions regarding location of lot lines, placing of improvements, walks, driveways, easements, or encroachments, a survey must be ordered.

3-9

5/94

4310.5 REV-2

SECTION VI - REAM RESPONSIBILITIES

3-14 Procedures and Processing. The responsibilities of REAMS are controlled by the individual REAM contract. Normal and usual responsibilities are as follows:

- A. Property Inspection. The REAM's initial inspection of the property is made in order to determine the condition, occupancy status, whether personal property remains on the premises, mortgagee performance, and whether imminent health or safety hazards exist. At the option of the Field Office, the REAM may also be required to provide an estimate of repairs.
 - 1. Condition. All damage to the property, including damage due to fire, flood, earthquake or tornado, or damage as the result of the mortgagee's failure to take reasonable action to inspect, preserve and protect, must be noted on the Initial Inspection Report, Form HUD-9516-A (Appendix 16), along with an estimate of the cost of repair.
 - 2. Occupancy. Any unauthorized occupancy must be reported to the Field Office. See paragraph 2-13 for occupied conveyance and paragraph 3-25 for reimbursement where appropriate of services not performed by the mortgagee.
 - 3. Personal Property. The REAM may not remove personal property from any occupied property or an abandoned Secretary-held property in custody. Personal property should be removed from a vacant property only after title is taken in HUD's name. Imminent hazards, however, as described at paragraph B, must be removed from abandoned custodial properties, and violation notices issued by local governments must be addressed and resolved.
- B. Access. It is mandatory that the REAM take immediate action to ensure that lock boxes or master locks are installed within 48 hours upon being notified of an acquisition. Only in this way can the appraiser gain the access necessary to comply with the appraisal contract requirement to provide appraisals within 10 days. REAMS must cooperate with appraisers and may not restrict lockbox keys or the combination for lockboxes from appraisers. If necessary, Field Offices should provide keys directly to appraisers without them having to contact the REAM.
- C. Estimate of Repairs. A lists of repairs is to be provided by the appraiser. The Field Office may, however, also require the REAM to provide a list of repairs. A comprehensive list will be required only where the recommended disposition approach indicates non-insured or insured, subject to repair. For insured, subject to repair, a definitive list addressing repairs necessary to bring the property to the intent of MPS (paragraph 6-19 A), together with cost estimates, is required by the procedures of repair escrow. For non-insured properties, the estimate need only include the total amount with a breakout by general category, such as structure, roof, electrical, etc.
- D. Mortgagee Performance. Mortgagees are required to perform monthly inspections of vacant or abandoned properties and to

take reasonable action to preserve and protect a property during conveyance. In addition to inspecting the property for damage due to mortgagee neglect, the REAM must also determine during the initial inspection whether the mortgagee winterized, secured, cleaned, and cut or maintained the lawn. The items shall be noted on the Initial Inspection Report, Form HUD-9516-A, and used to monitor mortgagee performance.

- E. Imminent Hazards. The REAM must give priority, on an ongoing basis, to identifying and removing imminent hazards. Examples of imminent hazards include broken or loose steps

5/94

3-10

4310.5 REV-2

or porches, failing plaster, broken tree limbs, uncovered holes, gas leaks, unsafe swimming pools, and other potential hazards. Removal or action to initiate removal must be taken no later than 24 hours after discovery. In all cases, removal of imminent hazards must follow requirements of local code.

The removal of imminent hazards is an on-going responsibility which should receive prompt and timely attention. If a REAM is not available, Field Office staff must take action to remove imminent hazards within 24 hours after discovery.

See paragraph 3-19 H.3.b. for a discussion of hazardous waste.

- F. Boarding. Field Offices must instruct the REAMs on the Field Office boarding policy. Decisions of whether to board a property must be made on a case-by-case basis unless the Field Office has predetermined boarding areas. Generally, marketability is enhanced when the property is not boarded and in some areas boarding will attract rather than deter vandals. See paragraph 3-11 B. before boarding abandoned Secretary-held Mortgage properties.
- G. Defective Paint Inspection Report. If required by the Field Office, the REAM will complete and provide HUD with a Defective Paint Inspection Report within 5 days of assignment.
- H. Protection/Securing of Property. All openings must be secured, but not necessarily boarded, to allow entry only by authorized persons. Serious vandalism or theft must be reported immediately to the local police.
- I. Lock Boxes. The REAM shall install lock boxes on all properties during the initial inspection and master keys shall be given to all participating brokers. Master keying systems may be used as an alternative to lock boxes. Also, see Access at paragraph 3-16 B. to ensure necessary access to the appraiser.

- J. Posting Signs. Signs in and around the property will be limited to the following:
1. "NOTICE". Form HUD-9518, NOTICE (Appendix 17), may be placed in a window at initial inspection at the discretion of the Field Office.
 2. HUD "For Sale" sign. The REAM is to post the HUD "For Sale" sign within 24 hours of notice from the Field Office that the property is to be listed. In areas with high concentrations of HUD properties available for sale, or where the signs have invited vandalism, the CPO may elect not to post "For Sale" signs on each property. "For Sale" signs will not be posted if prohibited by local ordinance.
 3. "Sold" Sign. In accordance with local laws and customs, the REAM may remove the HUD "For Sale" sign upon notice that the Field Office has accepted a Sales Contract. The selling broker's "Sold" sign may be placed on the property and may remain until closing or cancellation of the offer. The REAM may not place his/her "Sold" sign on the property unless the REAM is actually the selling broker.
- K. Taxes. If required by the REAM contract, local tax authorities must be notified of the change in ownership and instructed to send bills to the Field Office. Any tax bills received by the mortgagee after the assignment was filed for record must be sent by the mortgagee to the Field Office. See Chapter 5 for payment of taxes.
- L. Weather Protection. Depending on the climate and the time of year, systems subject to freeze damage must be tested and winterized upon taking possession.

- M. Testing Operating Systems. For properties to be sold on an uninsured basis or for severely damaged properties, testing may be limited to visual inspection and repair estimates based on the estimate of damage and replacement. For prospective insured sales, systems may be tested in operation. However, if there is good reason to believe systems are in proper working order, the CPO may elect not to test. Where properties have been vacant during the winter months, the CPO may elect to test the plumbing and hot water systems.
- 3-15 Processing Forms from REAMS. Within five working days after having been notified by telephone of a conveyance, the REAM is contractually required to complete and return the HUD-9516-A to the Field Office. The Field Office may, in addition, have required a

list of repairs. (See paragraph 3-14 C.) The Field Office must date stamp these forms upon receipt and process them as follows:

- A. Initial Inspection Report, Condition of Property, Form HUD-9516-A, (Appendix 16). Compare the information on this form to the mortgagee's claim, Form HUD-27011, Parts B and C, (Appendix 11) with regard to expenses claimed for protection and preservation. The Form HUD-9516-A must be retained in the case file.
- B. List of Repairs. If required by the Field Office. See paragraph 3-14 C.
- C. Unauthorized Occupancy. Where the REAM reports an unauthorized occupancy, follow procedures for Conveyance without HUD Approval as shown at paragraph 2-13.

5/94

3-12

4310.5 REV-2

SECTION VII - MORTGAGEE PRESERVATION AND PROTECTION

3-16 Condition of Property. When a mortgagee determines that a property with a mortgage in default is vacant or abandoned, the mortgagee is required to inspect the property and take reasonable action to protect and preserve the property until it is conveyed to HUD, provided such action does not constitute an illegal trespass (title is still in the mortgagor's name.) HUD will reimburse mortgagees for required preservation and protection costs within locally established limits provided the mortgagee's expenditures are adequately documented.

When a property is conveyed to HUD, it is to be undamaged by fire, flood, earthquake or tornado. If a property insured after January 1, 1977, is conveyed damaged, without HUD approval, because of the mortgagee's failure to take reasonable action to protect and preserve, the mortgagee will be held responsible. See Section XI, Procedures for Damaged Property.

If a property is not damaged at the time of conveyance the mortgagee has no further responsibility for the condition of the property, whether or not protection and preservation actions were taken. Field Offices should not delay the conveyance of a property if it is conveyed undamaged even if the mortgagee has not complied with all the requirements of the Regional Preservation and Protection Schedule. In such cases, Field Offices should perform any necessary preservation and protection work.

3-17 Role of the Regional Office.

- A. Policy for Regional Preservation and Protection Schedule. Each Regional Office must develop annual Regional cost schedules for

allowable preservation and protection (P&P) expenses. Schedules must include instructions detailing when and how P&P work is to be undertaken within the Region. Acceptable costs for each allowable P&P item must be included and the schedule must be updated annually to reflect current reasonable and customary costs for bona fide contractors who must meet HUD's requirements for licenses, bonding, insurance, etc. Specifications required for schedules are shown in Section VIII. The format and suggested preamble to be used for the Regional P&P Cost Schedules are shown in Appendix 15.

There may be some variations between Field Offices within a Region but Regional Schedules should minimize such variations. The Regions are to provide mortgagees with the schedules, which are to be effective annually on January 1st, to ensure that all mortgagees are notified simultaneously. Schedules are to be as uniform as practical on a regional basis. All Field Office variations, including preapproved boarding areas, must be in the Regional guideline. Field Offices are not permitted to issue their own schedules or variations.

Unless significant changes to previously-approved schedules are proposed, it is not necessary to obtain the prior approval of Headquarters for publication of the annual schedule. Proposed increases in the maximum allowable limit for total preservation and protection expenses must be preapproved by the Director, Office of Insured Single Family Housing, Attention: Director, Single Family Property Disposition Division, along with a justification for the increase and a recommended amount. Two copies of the annual schedules, and subsequent changes or revisions, are to be sent to the Director, Office of Insured Single Family Housing, Attention: Director, Single Family Property Disposition.

- B. Contact Person. Regional and Field Offices are encouraged to assign a staff member and a back-up person to respond to verbal inquiries from mortgagees. This will ensure uniformity in interpretations within the same Field Office. Regional Offices are to serve as the contact for mortgagees requesting needed schedules for Field Offices within their Region.

- C. Maximum Allowable Limit. The maximum allowable P&P limit, after which Field Office approval is required, is \$500 for a one-unit property, unless approved by Headquarters. Where appropriate, Regions may need to increase P&P costs (not just debris removal but all types of P&P costs) for multiple units. The cost of boarding, required inspections and utilities (where required by the Field Office to be left on), is excluded from the maximum allowable limit.

Expenses which fall within the cost limits described in the Regional Schedule will be considered reasonable and are approved by HUD as long as they do not exceed the total maximum expense cap and reflect actual work performed. If a mortgagee elects to obtain services at a cost higher than the allowable limits, it may do so, provided amounts in excess of the limits are not claimed for reimbursement.

3-18 Role of Field Office. The Field Office has the following responsibilities for preservation and protection:

- A. Review Costs. Field Offices must review costs of the Regional P&P Schedule as necessary to ensure that they accurately reflect current and reasonable customary costs for the service and recommend costs for inclusion in the Regional Preservation and Protection Schedule. Field Offices may recommend adjustments to the total P&P expense cap.
- B. Approve/Disapprove Mortgagee Requests to Exceed Maximum Allowable Limits. Property Disposition has the responsibility for review and approval or disapproval, in writing, of requests by mortgagees to exceed individual cost limits or the total maximum allowable expense cap as shown in the Regional Schedule. The Field Offices have the authority to approve increases in line items on a case-by-case basis, provided the increase is reasonable and justifiable.

Field Offices must respond to requests to exceed allowable limits within 10 working days from date of receipt. Requests to exceed limits are not to be considered a Mortgagee's Request for an Extension of Time.

- C. Review Claims: Field Offices must review the mortgagee's claim (Single Family Application for Mortgage Insurance Benefits, Part A, Form HUD-27011) for payment of taxes and/or properties conveyed occupied or damaged, and Parts B and C for preservation and protection work the mortgagee is claiming it performed. Refer to instructions for Review of Claim Form, beginning at paragraph 3-23.

Field Offices are not responsible for review of claims to determine whether individual costs are eligible or in excess of allowable limits. This responsibility is vested in a HUD contractor, who reviews a sampling of mortgagees' claims. As a result of the sample, an error rate is projected and corrective action initiated by the contractor. MIAS, Single Family Claims, bills the mortgagee when the contractor finds an excessive or inappropriate charge. Field Offices must not bill mortgagees for exceeding cost limits or for ineligible charges as this will interfere with the statistical sampling and projection techniques used in the audit process. Costs disallowed by the Field Office, however, for example for damage or for work not performed or not properly performed, must be collected following procedures shown at Debt Collection, Chapter 17.

SECTION VIII - REGIONAL PRESERVATION AND PROTECTION SCHEDULES

3-19 Specifications. HUD policy and general specifications for preservation and protection (P&P) are contained herein. Regional Schedules must include, at a minimum, HUD policy for abandoned automobiles and appliances, and they must include specifications and allowable costs for boarding, cleaning and debris removal, dump fees, inspections, lawn maintenance, snow removal, lock change, photographs, securing, signs and winterization, if applicable. Although variations in requirements/costs between Field Offices may be necessary, Regional Schedules must minimize these variations to the extent possible and clearly state any variances.

When developing Regional Preservation and Protection Schedules, staff should confer with the Regional Contracting Division to determine whether there are existing specifications or cost comparisons for similar services under contract within the Region.

- A. Abandoned Automobiles. See Ground and Yard Service, paragraph 3-19 H.2.a.
- B. Appliances. See Interior Cleaning, paragraph 3-19 H.1.b.
- C. Bid. Bids are required from a mortgagee needing to exceed the maximum limit for debris removal, only. Do not require mortgagees to submit bids for anything other than debris removal. The Department will not reimburse mortgagees for the cost of obtaining bids.

There may be instances where, because of the remote location of the property or for some other reason, the mortgagee may have difficulty in obtaining the required bids. Mortgagees have been advised that they may appeal to the Field Office where they encounter difficulties in obtaining bids. In these cases, the Field Office may accept less than the required number of bids before issuing approval to exceed the limit or approval may be given to convey the property without removing any debris. All such exceptions must be provided to the mortgagee, in writing.

Bids submitted by the mortgagee or its agent should be submitted on a printed company letterhead but will not be rejected as long as the bidder's name, address and telephone number appears on the bid.

- D. Boarding. Boarding of properties is expensive and generally has not been found effective in protecting them. In some areas, boarding attracts, rather than deters, vandals. Mortgagees may not board vacant properties without prior

written approval of the Field Office, unless boarding is to be performed in a geographic area preapproved by HUD and shown in the Regional Schedule. Preapproved boarding areas may be defined by city, county, zip code, street, or block, and must be approved by the Region and included in the Regional Schedule.

Detailed specifications on how to accomplish boarding may be desirable and should be consistent for the Region. Regional guidelines must state that the cost of boarding is excluded from the maximum limit. In all cases, mortgagees must obtain permission to exceed maximum per opening cost limits.

If boarding is performed without prior Field Office written approval, HUD will not reimburse the mortgagee for any costs associated with the boarding and will reduce the claim by any amount that must be expended to repair any damage which resulted from unauthorized boarding. Call MIAS, Single Family Claims (SFC), to stop or suspend payment for this portion of the claim or, if the claim has been paid, seek reimbursement of the boarding cost and any costs to repair. (See Severely Fire Damaged Properties, paragraph N.)

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- E. Broom Sweep. Regional Schedules must indicate that the cost of broom sweep is included as part of the cost of interior debris removal. However, schedules may allow a separate broom sweep charge where broom sweep is required but there is no debris to remove.
 - F. Contact Persons: Regional guidelines must include both Regional and Field Office contact persons who will respond to verbal requests from mortgagees. They must also state that mortgagees are to contact the Regional Office if issues cannot be resolved with the Field Office.
 - G. Damaged Property. See Procedures for Damaged Property at Section XI.
 - H. Debris Removal. Field Offices may decide to do their own debris removal. Otherwise, debris and personal property are to have been removed before the property is conveyed to HUD, unless otherwise directed by the Field Office. Where the mortgagee or its agent performs debris removal, Field Offices must ensure that Regional Schedules reflect normal and reasonable amounts for debris removal in the Field Office area. For each individual property, mortgagee debris removal procedures must conform to the method identified by the Regional Schedule but in all cases must be pursuant to local code.

A mortgagee will be reimbursed for actual, normal and reasonable debris removal expenses up to the debris removal limit shown in the Regional Schedule without Field Office approval. Debris removal limits may be structured to include interior and exterior cleaning. Debris removed per local code is subject to the established limits on debris removal. To be reimbursed, any amount over the limit must have the prior written approval of the Field Office. HUD will not reimburse amounts in excess of normal and reasonable costs for this service. Debris removal should normally have to be provided only once. See paragraph 3-19 H.3.b. for a discussion of hazardous waste.

1. Interior Cleaning.

- a. Trash, debris, personal effects. Clean-outs of the interior of the property must include the removal and proper disposal of all debris, trash, personal effects such as furniture, clothing, dishes and utensils, as well as shabby and torn carpet, cracked and torn linoleum and dead animals. This standard applies to the garage, if any, whether attached or detached. Except, trash and debris in severely fire damaged properties, or properties which may be demolished, is not to be removed unless required by local code.
- b. Appliances. The range/stove must not be removed. Mortgagees must make a reasonable judgement as to the condition of free standing appliances such as refrigerators, air conditioners, washers and dryers. If the appliances appear to be operable, with useful life remaining, they are to be left in the property. Mortgagees must document the appliances present in the property so that future inspections will indicate if any of the free standing appliances are missing. The mortgagee's claim review file should also document whether appliances were removed as inoperable.

2. Ground and Yard Service.

- a. Abandoned Automobiles. Abandoned automobiles must be removed. Check with local authorities to establish criteria for determining when an automobile may be considered abandoned. Regional Schedules must address requirements for removal of abandoned automobile and all removal must be performed as required by local code.

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- b. Clean-up of the Yard and Grounds. Yard and grounds clean-up must include the removal and proper disposal of all trash, refuse, rubble, fallen tree branches and other debris, abandoned automobiles, and any other objects or material that would not normally be kept on the lot and exterior of the property.
 - c. Frequency. Clean-up of the yard, which may include debris, normally should have to be conducted only once. Inspections will determine if exterior cleaning should take place at the time of conveyance, first cutting of the grass or if recleaning is necessary. Permission is necessary for the mortgagee to exceed the published limit.
 - d. Lawn Mowing/Snow Removal. Lawn mowing and snow removal is to be performed as shown in the Regional P&P Schedule, and must be consistent with requirements of local codes and ordinances.

The grass should generally be cut twice a month between April and October, although once a month may be sufficient depending upon the area. Variances in these dates may be appropriate in some areas. Any variance, however, must be included in the Regional Schedule. Grass and weeds must be cut to the edge of the property line and to a maximum height of two inches (2"). Grass and weeds must be trimmed around foundations, bushes, trees, planting beds, and flush with fences or other construction that would normally require trimming.

All clippings, leaves, brushwood and trash must be removed from the premises. Sidewalks, driveways and other paved areas must be swept clean. The disposal of all litter, cuttings and debris must be performed according to local government requirements.

Snow removal will be effected at the discretion of the mortgagee, consistent with local codes and ordinances.

Grass mowing and/or snow removal is included in the maximum allowable limit as shown in the Regional P&P Schedule. If it appears to the mortgagee that grass cutting expenses are causing the total P&P expenses to exceed the maximum limit, the mortgagee should estimate the number of future grass cuttings and submit a request to exceed the total maximum limit. The mortgagee's request to exceed cost limits is to contain justification to support the request to exceed the limit.

- 3. Dump Fees and Units of Measure. Dump fees should not be listed as a separate cost from debris removal. Regional

Schedules for costs per cubic yard or per ton will include dump fees. Regions, with input from each Field Office, should take into consideration any increased costs of dump fees. Consideration must be given to reimbursement for hazardous wastes, non-compactables (steel, cable, concrete, construction materials, etc.), tires, and items such as appliances, mattresses, springs, etc. which may increase costs. Additionally, offices must factor in, if applicable in their jurisdiction, variables such as general liability insurance costs for vendors, vehicle liability costs and their relationships to dumping, county or private dump permit fees (initial, renewal, or per truck), and use and costs of containers if they are a normal part of debris removal.

- a. Volume Measurement. Regions must determine which volume measurements are acceptable, i.e., cubic yard, and ensure consistency within the

Region Measurements such as "per pickup load" or "dump box" must not be used in guidelines without quantifying the volume. Cubic yard measurements or costs per ton which incorporate dump fees must be used. Do not state that only certain sizes of vehicles should be used. If a vendor uses a pickup truck or any truck of varying size, his bid should be based upon cubic volume or weight as specified in the Regional Schedule.

- b. Hazardous Waste. Residential properties will seldom have hazardous waste. When a mortgagee requests hazardous waste removal procedures, direct the mortgagee to local health and environmental agencies for guidance on disposition. While the vendor is checking with the health or environmental source he should seek approved sources/locations to deliver items. In some cases access to approved registered hazardous waste haulers with approved storage facilities will be less expensive than having to pay an excessive cost to deliver one item to an authorized disposal site.
4. Request to Exceed Limits for Debris Removal. When a mortgagee has determined that it will be necessary to exceed the published cost limits to remove debris, the mortgagee will review the appropriate Regional Guideline to determine if one or two bids is required. (See Debris Removal Bidding Procedure, paragraph 3-19 H.5., and Request to Exceed Cost Limits, paragraph 3-19 Q.) At the

time of providing the bid(s), the mortgagee should indicate for what purpose, type of debris and the sum of P&P expenditures to date so the Field Office can determine whether and by how much the maximum cost limit will be exceeded. This will enable the Field Office to determine the total expenses incurred to date as well as the amounts being requested for the individual debris removal and the maximum P&P limit.

Field Offices are reminded that they must respond to all mortgagee requests to exceed debris removal limits within 10 working days from the date of receipt.

5. Debris Removal Bidding Procedures. Bidding procedures are required only when the cost will exceed the limit. Field Offices may decide to contract directly for their own debris removal or have the REAM perform this service under its contract. Alternatively, however, where mortgagees are required to remove debris, to assure fair and reasonable prices, the Regions and Field Offices must choose and use one of the two bidding methods shown below. Under either method, the resulting debris removal contract is awarded by the mortgagee. In Method I, one bid is required from the mortgagee and the Field Office obtains another bid from a HUD source. In Method II, the mortgagee provides two bids, with the possibility of the Field Office securing a third bid from a HUD source. In either method, the contract is awarded by the mortgagee.

- a. Method I Procedure. Upon receipt of the bid from the mortgagee or field service company, the Field Office must:

- (1) Obtain an additional bid from one of the Field Office's sources, determine which bid is acceptable, and instruct the mortgagee to either:

- (a) Remove debris based upon the mortgagee's bid (restate the dollar amount in the approval letter);

- (b) Remove debris based upon HUD's bid amount via their own source or via contracting directly with HUD's bid source at the stated bid amount; or

- (c) Instruct the mortgagee to convey "as is" with debris.

b. Method II Procedure. Where the mortgagee utilizes a field service company to secure multiple bids, there is the possibility that independent and competitive bids will not always be forthcoming. Therefore, this optional procedure has been established to assist in the prevention of possible abuse in the bidding process where multiple bids are required. The field service company, upon finding that debris removal limits must be exceeded, must develop its bid and immediately send that bid to the appropriate HUD office. A second independent and competitive bid should then be obtained by the field service company and forwarded separately to HUD. Upon the receipt of the required bids, the Field Office must do one of the following:

- (1) Accept one of the two mortgagee submitted bids (when the bid is accepted, restate the dollar figure on the approval letter).
- (2) Not accept either bid and secure a bid from the Field Office vendor list and review it for reasonableness. If reasonable, provide the mortgagee with an approved cost and name of the vendor. The mortgagee can:
 - (a) Remove debris based upon HUD's bid amount via their own source or
 - (b) Contract directly with HUD's bid source at the stated bid amount.
 - (c) If the Field Office source is also excessively high but the Field Office feels that it can still get the debris removed at a lower figure, the Field Office should either secure another bid from its local sources or advise the mortgagee to convey "as is" with debris.

6. Source List. Field Offices must establish a source list of an adequate number of qualified vendors who are willing to provide debris removal services. REAMs are not to be included in the source list. These vendors must provide free estimates and meet all HUD contractor/vendor requirements relating to licensing, insurance, bonding, etc. Field Offices must rotate debris removal services among the qualified vendors. Field Offices are to provide, upon request, a list of vendors who will provide free estimates. The mortgagee's field service company may obtain independent, competitive bids for debris removal and may also be a bidder.

7. Eviction. Costs for removal of debris and personal property are not to be considered as P&P expenses when removed as part of the normal eviction proceedings.

(Eviction expenses may also include the hiring of locally-mandated eviction crews or storage fees.) Debris removed by local law enforcement or crews under the control of local law enforcement where the mortgagee has no control over the removal are to be considered a cost of eviction. If items removed during debris removal cannot be distinguished from personal property and taken to storage, the cost of removal is considered an eviction cost. Eviction expenses should be entered in Item 305 of Part D of the claim form.

- I. Photographs. The cost of photographs will be allowed only to support expenses beyond allowable cost limits. Additional photos beyond the allowable photo expenditure in the Regional Schedule is the responsibility of the mortgagee, unless specifically allowed, in

writing, by the Field Office on a case-by-case basis. If photos cannot be produced at the time of a claims review, the amount claimed for reimbursement will be disallowed.

J. Securing Properties.

1. Windows and doors must be secured to prevent unauthorized entry and to protect against weather damage. Broken glass should be replaced. In some cases, temporary measures must be taken to protect the interior of the property from damage caused by leaking roofs. These temporary repairs in the form of spot patch work or replacing loose shingles should be performed promptly.
2. Mortgagees are required to provide a master lock change. This should be done only once, unless the property is subsequently broken in to. Regional Schedules must specify the type of lock and acceptable model required in the Region. Locks should be changed on only one entry door. The lock must be of the type prescribed by the Field Office and identified in the cost schedule. All other doors should be braced and all windows and other property openings should be secured. Regional P&P Guidelines are to specify the type of bracing required on doors other than the main entry door. Garages and outbuildings may be secured by padlock and hasp.

Keys to all locks must be delivered to the Field Office with the copy of Form HUD-27011, Part A, or the cost of the lock change must be disallowed by the Field Office. (See Reimbursement for Services Not Performed or Not Properly Performed, paragraph 3-25.)

- K. Signs. It is not generally desirable to have signs on a property which indicate the property is vacant. Mortgagees are, however, required to post a sign no larger than eight and one-half by eleven inches and to include a contact telephone number for emergency or other purposes. The sign must be attached to the inside of a window or on the front door.
- L. Windows. When setting limits on window dimensions or opening sizes, give specific measurements. For example, do not use terms such as "small" window or "large" window, unless the maximum dimensions of each size is given.
- M. Winterization. If required by local weather conditions, winterization must be completed on each property. Winterization must include a thorough and complete draining of all plumbing and heating systems. Use of air pressure in the system, or in some cases adding antifreeze to the system, are both acceptable provided they comply with local code and that the result is to prevent freeze damage. The water supply to the property must be shut off at the curb. If a curb shutoff is not possible, the main interior water supply must be shut off. In either case, the water meter must be disconnected and left in the property, and the disconnected feed pipe leading from the main water valve must be plugged.
1. Dry Heat Systems. The hot water heater and all domestic supply and distribution piping must be thoroughly drained. All faucets and valves must be opened in the process, and then closed after draining is completed. Adequate amounts of antifreeze are to be placed in all fixture traps including toilet tanks and bowls.
 2. Wet Heat Systems. The winterization requirements outlined above apply. In addition, the house boiler system must be thoroughly drained. All radiator vents are to be opened in the process. Bleeder pins must not be removed from the radiators.
 3. Radiant Heat Systems. The winterization requirements outlined above apply. In addition, winterization must include a thorough draining of the heater. Radiant

heat piping must be drained and blown dry by compressed air pressure and an adequate amount of antifreeze is to be put in the radiant piping.

4. Sump Pumps. Where a sump pump is being used to keep basements or crawl spaces dry, the electricity must remain

on to assure that the property is not damaged by flooding.

- N. Severely Fire Damaged Properties. Severely fire damaged properties may need to be boarded for safety reasons and to prevent unauthorized entry. The additional costs of securing severely fire damaged properties will not be included in the mortgagee's maximum limit for customary P&P costs. However, whenever the costs of securing severely fire damaged properties in conjunction to the requirements identified in the appropriate Regional P&P cost guideline shall exceed \$450, the mortgagee must obtain Field Office approval to receive reimbursement of any additional costs. The Field Office shall give priority to such requests and provide mortgagees the authority to board where warranted.
- O. Demolition. Mortgagees are required to forward copies of demolition notices to Field Offices. Field Offices must establish a log of all such notices and procedures to inspect and evaluate the economic feasibility of demolition. Field Offices are to provide a written response to the mortgagee within 10 working days from the date of receipt. Field Offices must advise the mortgagee to allow the demolition to proceed or request that the local government delay the demolition and convey the property to HUD as is.

Since demolition is an extreme measure, there will be very few instances where the mortgagee could make repairs within the guidelines of preservation and protection to correct the problem which warranted a demolition order. Field Offices are cautioned in this matter not to authorize expenditures which are not P&P but are really repairs. The length of time taken by mortgagees to perform such repairs delays the date of conveyance and costs HUD additional debenture interest.

If the property is conveyed as is, the Field Office should evaluate the Demolition Notice and the condition of the property. Follow normal disposition procedures, consistent with local code.

- P. Maximum Allowable Limits. There are two types of cost limits: One for each allowable cost limit per P&P action and one for the maximum allowable limit for total P&P expenses per case. If a Region wishes to establish the total maximum limit above \$500, the approval of the Director, Office of Insured Single Family Housing, must be obtained in advance.
- Q. Requests to Exceed Cost Limits. The Field Office is responsible for review and approval of the mortgagee's request to exceed individual limits or the total allowable maximum limit for P&P. Appendix 19, Request to Exceed Cost Limits for Preservation and Protection, provides the sample format used by the mortgagee. This format can be used to respond to the mortgagee's request to exceed the cost limits. Field Offices must keep copies of all requests and responses and must maintain a log of these requests. All requests must be in writing. In lieu of requests mailed to the Field Offices, mortgagees may submit their requests via facsimile. When

requested by the mortgagee, Field Offices must also respond via facsimile. Field Offices must respond to all mortgagee requests within 10 working days from the date of receipt. Mortgagees have been instructed that if they have not heard from the Field Office within 10 days, they are to continue to follow-up with the Field Office until a written response is received.

3-21

5/94

4310.5 REV-2

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- R. Multiple Units. Where appropriate, Regions need to increase the maximum dollar amount for two-, three-, and four-unit dwellings, where there are increased P&P costs (not just debris removal but all types of P&P costs) for multiple units. The Regional Guidelines should provide for those increased costs as specific dollar amounts for each additional unit.
- S. Items Excluded from Allowable Limit. The cost of boarding, required inspections, and utilities where required by the Field Office to be left on, is excluded from the maximum allowable limit. (See Severely Fire Damaged Properties at paragraph N.)

5/94

3-22

4310.5 REV-2

SECTION IX - MONITORING PRESERVATION AND PROTECTION

3-20 Review of Preservation and Protection Expenses. In order to be reimbursed for expenses incurred as the result of the foreclosure of an FHA-insured mortgage, the mortgagee submits the original of Part A of the Single Family Application for Insurance Benefits (claim), Form HUD-27011, (Appendix 11) to Mortgage Insurance Accounting and Servicing (MIAS), on the date the deed to the Secretary is filed for record.

The Part A, Initial Application, provides the initial case data. Part A is the first part of the claim prepared and contains information relating to the mortgage, property, property condition, mortgagee, payment history and the foreclosure or assignment process. Mortgagees must include a copy of the appropriate Field Office authorization to exceed either the maximum allowable limit or individual item limits. A copy of the Part A is sent to the Field Office at the same time it is mailed to Headquarters.

Claims are reviewed automatically on the A43C System. In addition, claims are sampled on site by a Headquarters' contractor. Both

levels of review are described below.

- A. Automated Claims Processing - the A43C System. Information from the Form HUD-27011 is entered on Single Family Insurance Claims (A43C) system. The A43C edits monetary amounts claimed against fixed allowable parameters. If the claim exceeds parameters, the cases will be suspended for manual review by a claims analyst. Depending upon information obtained from the mortgagee or Field Office during review, the cost may be disallowed, partially reimbursed or paid in full.
 - 1. The system will pay the mortgagee 100 percent of the amount claimed on Part A of Form HUD-27011, usually within six days of receipt. Because of this quick payment, it is very difficult to stop a payment.
 - 2. The claim system will not automatically pay any claim in which the total amount claimed for P&P on Part B, Line 110 exceeds the limit established for the Field Office in the claims parameter table. These claims will "suspend" and may be returned to the mortgagee for correction or additional documentation.

- B. Contractor On Site Review. In addition to the automated review show in A above, preservation and protection expenses are sampled by a Headquarters' contractor on the site of the mortgagee's place of business. On site claim reviews performed by the contractor verify the accuracy of information entered on the claim form, determine the sufficiency of supporting documentation, evaluate mortgagee controls over claim processing, identify errors resulting in claim overpayment, disclose problem areas, and evaluate mortgagee compliance with applicable requirements. If review determines that excess costs will be disallowed, MIAS initiates collection.

As a result of MIAS and contractor on site review of claims, there is a potential that the same claim may be flagged and reviewed twice. Both reviews, however, will look for excess preservation and protection expense and for Field Office approval, in writing, of requests to exceed maximum allowable limits.

8-21 Claims Assistance:

- A. Claim Form (HUD-27011). Mortgagees have been advised to address general questions for the use of the claim form (HUD-27011) to the Field Offices. (See HUD Handbook 4330.4, FHA Single Family Insurance Claims, paragraph 1-4.) For specific inquiries to confirm HUD's receipt of a claim when 45 days have elapsed and the mortgagee has not yet received a response, or to request the status of a claim, mortgagees may be directed to the Single Family Claims Support Service Center at (703) 235-9102.

- B. Preservation and Protection. Mortgagees are to contact the Field Office individual currently named in the Regional Preservation and Protection Schedule for questions regarding preservation and protection. If the question is not resolved at the Field Office, mortgagees are to contact the Regional Office.
- 3-22 Management Claims Information Reports. PD and Loan Management should use the two reports below in their monitoring efforts. The reports are generated automatically by MIAS on the A43 system and transmitted monthly to the Field Offices. Contact the Management Information Director (MID) in the Region or the Automation Technology Administrator (ATA) in the Field Office to request these reports.
- A. Audit Report for Protection & Preservation Expenses (Report A43BKM4A). Cases are ranked by the amount paid for P&P. Field Offices can determine from this report the amount paid for P&P (Line 110, Part B) on specific cases.
- B. Settled Cases Report (Report BKB2). This report lists, by Field Office, each claim where a partial or final settlement has been made and provides totals paid. This report can be used to determine whether or not a claim has been paid. It can also be used to reconcile the inventory.

SECTION X - REVIEW OF CLAIM FORM

- 3-23 Procedures for Review of Part A: The Field Office must review Part A for tax information, occupancy and damage. Check the following:
- A. Item 22, Is Property Vacant? If answer is "No," review Item 23.
- If Item 23 is "Yes", but the initial inspection by the REAM reveals that the property is occupied without HUD approval, follow procedures shown in paragraph 2-13.
- If eviction becomes necessary, the subsequent costs of eviction are the responsibility of the Field Office. Contact the mortgagee to determine whether HUD is being charged for eviction costs, since eviction was not completed by the mortgagee. If so, the mortgagee should be told to reduce its claim (Parts B and C) by this amount. If Parts B and C have

been submitted, initiate collection procedures as shown in Chapter 17 after the total claim has been paid. Reconveyance is not authorized to correct unauthorized occupancy.

- B. Item 23, Date of Approval. Verify that the date of HUD's approval letter and the date entered in Item 23 agree.
- C. Item 24, Is Property Conveyed Damaged? If this item is checked "Yes," note whether damage was caused by fire, earthquake, flood or tornado or, for mortgages insured after January 1, 1977, whether the damage was caused by the mortgagee's failure to take reasonable action to inspect, protect and preserve the property. Also note whether the required date is placed in Item 25a or 25b. Also, note the figure in Item 27, Recovery or Estimate of Damage. If there is no damage or if there is damage to the property which is not covered by the above sections and "no" is checked, the types of damage and immediate repairs needed should be found on the reverse of Part A Under "Mortgages Comments".
- D. Item 25 (a). This is the date of the letter HUD sent to the mortgagee. This date must match the date on the copy of the letter in HUD's possession approving the conveyance of a damaged property. This requirement is stated at 24 CFR 203.379(a), which states, in part (emphasis added):

"If the prior approval of the Commissioner is obtained, there will be deducted from the insurance benefits the Commissioner's estimate of the cost of repairing the damage or any insurance recovery received by the mortgagee, whichever is greater."

When Part B of Form HUD-27011 is received, check Item 119, to determine whether the actual insurance recovery was more or less than the estimate of the cost of repairs. If the insurance recovery was less, no adjustment shall be allowed. If the recovery was more, the difference must be added to Column A Deductions of the mortgagee's claim because it is the greater amount. Mortgagees may not create a net adjustment to their claim which shall be less than HUD's estimate of the cost of repairs. If a mortgagee's insurance recovery is less than the estimate to repair, the mortgagee cannot claim the difference in Part B.

- E. Item 25(b). This is the date of the certification under 24 CFR 203.379(b), which should be attached to the claim regarding the mortgagee's unsuccessful efforts to obtain hazard insurance. This requirement is shown at 24 CFR 203.379(b) which states in part (emphasis added):

"If the property has been damaged by fire and was not covered by fire insurance at the time of the damage, or the amount of insurance coverage

was inadequate to repair fully the damage, only the amount of insurance recovery received by the mortgagee, if any, will be deducted from the insurance benefits.....".

When Part B of Form HUD-27011 is received, check Item 119 to determine whether the actual insurance recovery was more or less than the estimate on Part A, Item 27. If the insurance was more, the difference must be deducted under Column A. If the actual recovery was less, the difference must be added under Column B.

- F. Item 26, Type of Damage. This should be checked, if applicable.
- G. Item 27, Recovery or Estimate of Damage. If the Field Office granted approval to convey the property damaged, check to determine that the amount of insurance recovery or HUD's estimate to repair the damage, whichever is greater, was entered. If the insurance recovery is not the same as the estimate, the amount must be adjusted on Part B, Item 119.

NOTE: The mortgagee may not enter an adjustment on Part B, Item 119, so as to create a net adjustment to the claim which is less than HUD's estimate of damage. If a mortgagee's insurance recovery is less than the estimate to repair, the mortgagee cannot claim the difference in Part B.

- H. Item 32, Tax Information Check to see that this item has been completed and that copies of last paid tax bills (or other proof of payment) are attached to the claim. If not, request that the mortgagee submit these but do not hold up case processing. If taxes have not been paid, the Field Office must pay them.
- I. Item 44C, Date Property was Secured. Check the date the mortgagee claims to have secured the property.

3-24 Procedures for Review of Parts B, C and D. The mortgagee is to send Parts B, C and D of Form HUD-27011 to the Field Office within 45 days of the date the deed is filed for record, or within 15 days of title approval, whichever is later. Part C, Support Document, contains itemized information relating to disbursements for the preservation and protection of the property. Part D, Support Documentation (Continuation 1), contains itemized information relating to taxes, hazard insurance premiums, MIP, and foreclosures costs. Parts C and D are prepared prior to completion of Part B, Fiscal Data.

Review Parts B and C for reimbursable expenses, only. Do not review for excessive charges for preservation and protection. Those charges will be reviewed by a HUD contractor. Compare Parts B and C to the Initial Inspection Report, HUD Form 9516A. If the Inspection Report reveals claimed services were not performed or not properly performed, the Field Office must require

the mortgagee to take corrective action or the Field Office may disallow the expense and take action to collect. See Debt Collection, Chapter 17.

A. See memo at beginning of handbook.

B. For line item 305 of Part D, determine whether taxes charged were actually paid and whether the mortgagee charged HUD for tax penalties. If HUD was charged for taxes which were not paid or for tax penalties, these items must be reimbursed. Refer to Chapter 17 for collection procedures.

3-25 Reimbursement for Services Not Performed or Not Properly Performed. Considering the rapid payment of claims, the Field Offices will most often be required to implement collection

5/94

3-26

4310.5 REV-2

procedures shown in Chapter 17 in order to collect reimbursable expenses if informal action has not resulted in reimbursement. Field Offices may contact MIAS, Single Family Claims (SFC), as shown in paragraph 4-44 C., to determine the status of claim payment. If the claim has not been paid, MIAS may suspend payment until the issue is resolved or, if payment has been made, the Field Office must pursue collection as shown in Chapter 17.

3-27

5/94

4310.5 REV-2

SECTION XI - PROCEDURES FOR DAMAGED PROPERTY

3-26 Request to Convey a Damaged Property. Mortgagees must repair damage to properties caused by fire, flood, earthquake or tornado or for mortgages insured on or after January 1, 1977, damage due to mortgagee neglect (24 CFR 203-377-379), or obtain prior written permission from HUD to convey the property damaged. When a mortgagee requests permission to convey a property damaged, Field Offices shall promptly respond in writing. In some Field Offices this request will be received and answered by Loan Management with input from PD concerning the estimated cost of repairs. The Field Office Manager may decide, however, that this function is the sole responsibility of PD.

If the decision of the Field Office is to require the mortgage to repair the property prior to conveyance, HUD will not reimburse the mortgagee for the cost of these repairs. If approval is given to convey a property in a damaged condition, the greater of any insurance recovery or HUD's estimate of the cost of repairs will be

deducted from the mortgage insurance benefits. All approvals to accept property in a damaged condition must state HUD's cost of repairs.

3-27 Damaged Property Conveyance without HUD Authorization. When Part A of Form HUD-27011 and/or the Initial Inspection Report reveals that a property damaged by fire, flood, earthquake, or tornado or, for mortgages insured on or after January 1, 1977, the property was damaged because of mortgagee neglect without HUD prior written approval or a certification letter, contact the MIAS Office of Single Family Claims (SFC), (703) 235-9102, to determine whether the claim has been paid. If not, request that the claim be suspended until corrective action is taken. One of the following actions must then be taken depending on which best serves the interest of the Secretary:

- A. Mortgagee Will Repair. After a decision is made to have the mortgagee repair the damage, send the 30/90 Day Preliminary Notice of Intent to Reconvey (Appendix 40) to the lender giving them 90 days to complete the repairs. One 30-day extension may be granted, but in no event should repairs exceed 120 days. A copy of these instructions must be forwarded to Loan Management and a copy retained in PD case files. Program the case as HOM-6, "Mortgagee Action Required".
- B. Reduced Claim. If the decision is made to accept the property in damaged condition, the mortgagee must be instructed to, within 80 days, reduce its claim by HUD's estimate of the cost of repair or any insurance recovery received by the mortgagee, whichever is greater.

On claims already paid, the mortgagee must be instructed to refund the greater amount to HUD within 30 days.

Occasionally, mortgagees will fail to show a damage estimate or insurance recovery on the original claim and interest is then calculated on the full unpaid principal balance. It is important that you add to the amount to be refunded, the debenture interest paid on the unpaid principal balance which is equivalent to the damage estimate or insurance recovery. Before determining what amount should be refunded, the Field Office should obtain current information from MIAS-SFC (703) 235-9102) regarding the claim payment which also includes the interest calculation.

- C. Offset of Future Claim. In situations where HUD agrees to accept the property in damaged condition but the mortgagee fails or refuses to reduce its claim or make a refund to HUD within 80 days, initiate reconveyance as described in Chapter 4 for possible offset on a future claim.

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- 3-28 Reconveyance. Use reconveyance sparingly and only as a last resort where other reasonable actions cannot resolve the problem. If a decision is made to reconvey, follow the reconveyance procedure described in paragraph 4-44.
- 3-29 Damage Due to Mortgagee Neglect. When the Initial Inspection Report, Form HUD-9516-A reveals damage to the property, the following conditions must be met before mortgagee neglect can be established.
- A. The mortgage was insured after January 1, 1977.
 - B. After default and prior to conveyance, the mortgagee was aware that the property was vacant or abandoned or could reasonably have been expected to have known of such vacancy.
 - C. Damage occurred due to the mortgagee's failure to take reasonable measures to inspect, protect and preserve the property. "Reasonable measures" are those which other lenders in an area usually and customarily take to preserve properties.
 - D. The mortgage did not follow specific conveyance instructions issued as requirements by the Field Office.
- 3-30 No Finding of Mortgagee Neglect. If a mortgagee has taken all reasonable measures to inspect, preserve and protect a property and the property is damaged in spite of such measures, then the mortgagee cannot be held liable for property damage or neglect. In these cases, simply document the file.

If the Field Office is not satisfied with the mortgagee's explanation and believes that the damage was the result of mortgagee neglect, a number of options must be considered, depending upon the best interest of the Secretary. Available options are shown at paragraph 3-27.

- 3-31 Existing Warranties. For properties built within the previous 10 years, Field Offices should be aware of the possibility of existing warranties. If a property is damaged and meets the age criteria, to the extent possible, the Field Office should determine if any active warranties exist. Appendix 10 of HUD Handbook 4145.1 REV-2, titled: List of HUD Accepted Insured Ten-Year Protection Plans, provides a list of acceptable plans. If a 10 year warranty plan does exist, when financially feasible, the Department should file a claim with that warranty company.

In addition, under Section 518(a) of the National Housing Act, a four-year structural defect warranty is provided on all "proposed construction" properties. If the builder is determined to be at fault for the structural defect, the Department should notify the builder and give him the opportunity to make repairs. If the builder refuses to make repairs, administrative sanctions should be initiated by Development. Thereafter, the Department is responsible for repairs and a decision should then be made to make repairs or sell as is. If repairs are not made, FHA insured financing,

including FHA 203(k), should not be offered.

SECTION XII - PROCESSING REQUIREMENTS FOR SAMS

- 3-32 General. Data entry instructions and examples of data screens and reports specific to acquisition and management is entered in SAMS. Field Offices are required to maintain and update SAMS on a daily basis.